

Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

IN THE
Supreme Court of the United States
OCTOBER TERM, 1975

No. 75-1354

TRANS WORLD AIRLINES, INC.,
Petitioner,
v.

ARISTEDES A. DAY, et al.,
Respondents.

**SUPPLEMENTAL BRIEF OF TRANS WORLD
AIRLINES, INC. IN SUPPORT OF PETITION
FOR WRIT OF CERTIORARI**

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Petitioner, Trans World Airlines, Inc. ("TWA"), respectfully submits this supplemental brief pursuant to Rule 24(5) and in reply to the brief of the Solicitor General.

Pending Cases in Other Circuits

Two cases central to the issue before this Court are currently awaiting decision in two circuit courts of appeals. The Third Circuit will rehear in banc in November, 1976 a case decided on identical facts, *Evangelinos v. Trans World Airlines, Inc.*, No. 75-1990.

An appeal from *In Re Tel Aviv*, 405 F. Supp. 154, 157 (D.P.R. 1975) ("[T]he delegates to the Convention specifically intended to exclude from coverage accidents occurring to passengers inside an airport terminal building.")

was submitted to the First Circuit *sub nom. Hernandez v. Air France*, No. 76-1146, on June 8, and is currently under consideration.

The Decision Below Conflicts With the Decision of the Supreme Court of France

On page 14 of the Solicitor General's brief it is stated:

"[T]he French court's opinion [in *Maché*] takes a more restrictive view of the scope of Article 17 than that taken by the court of appeals below. . . ."

Moreover, in footnote 6 it is suggested that the French court's interpretation of this treaty, debated and drafted in French, resulted in a "misconstruction." It is apparent, therefore, that there is a conflict between the decision below and that of the Supreme Court of France.

Conclusion

For the foregoing reasons TWA's petition for a writ of certiorari should be granted or, in the alternative, this Court might await the decisions of the Third Circuit in *Evangelinos* and the First Circuit in *Hernandez* before making a determination.

Respectfully submitted,

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October, 1976

Certificate of Service

JOHN N. ROMANS, an attorney for petitioner and a member of the Bar of this Court certifies that on October 6, 1976, three copies of the foregoing Supplemental Brief of Trans World Airlines, Inc. in Support of Petition for Writ of Certiorari were served by mail upon all parties required to be served as follows:

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Dated: October 6, 1976

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